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Income Tax Special Instructions

**for married
couples**

**Filing the Utah income
tax return when one
spouse is a full-year
resident and the other
spouse is a nonresident**

General Information

Special Instructions are a method of filing separate Utah returns when a husband and wife would otherwise be required to file a joint return.

Who Can Use Special Instructions?

A husband and wife qualify to file Utah returns using Special Instructions when one spouse is a full-year Utah resident and the other spouse is a nonresident.

If either spouse is a part-year resident, the couple cannot file using Special Instructions. Couples who do not qualify to use Special Instructions must claim the same filing status on both the federal and Utah returns.

Example 1:

Doug moved to Utah in May of 2001. His wife, Marlene, does not plan to move to Utah. Doug and Marlene do not qualify for Special Instructions until tax year 2002 because Doug is only a part-year resident in 2001. They must use the same filing status on both their federal and Utah tax returns. They will qualify for Special Instructions in 2002, if Doug is a full-year Utah resident and Marlene remains a nonresident during calendar year 2002.

Example 2:

Sally moved to Utah in 2000. Her husband, Brian, did not move to Utah until June of 2001. This couple does not qualify to use Special Instructions for calendar year 2001 because Sally is a full-year resident and Brian is a part-year resident.

Are Military Personnel and Their Families Subject to Utah Income Tax?

The spouse of a person in active military service is generally considered to have that person's domicile and is subject to the same income tax laws and rules that apply to the military person.

Nonresidents who are stationed in Utah solely due to military orders are not subject to tax on their military pay in Utah. However, nonresident military

personnel or members of their family who have earned income from Utah sources, other than active military service pay, are required to file a nonresident Utah tax return and pay any taxes due.

Can Military Personnel Use Special Instructions?

A military person and his or her spouse may use Special Instructions if one spouse is a full-year Utah resident and the other spouse is a nonresident.

A nonmilitary spouse who was a Utah resident before marrying a military person or who came to Utah to live without the military person may use Special Instructions, if he or she is a full-year Utah resident.

Example 3:

Fred and Alice moved to Utah in 2001 due to military orders. Fred is in the military and Nevada is his home of record. Alice has income from Utah sources. Fred and Alice do not qualify to use Special Instructions because Alice retains the Nevada domicile of her military spouse, unless Fred changes his home of record to Utah. If they file a joint federal return for 2001, they must file a joint Utah return.

How do I File With Special Instructions?

Couples who qualify to use Special Instructions may file a federal return as married filing joint and file Utah returns as married filing separate.

Both spouses must compute Utah taxable income, as if federal income had been computed separately, as follows:

- 1) Determine the total federal adjusted gross income (FAGI) for each spouse. Divide adjustments that apply to both spouses in proportion to their respective incomes. Include documentation of the computations with the return.
- 2) Allocate a portion of each deduction or add-back item to each spouse. Determine this allocation as follows:
 - a) Divide the FAGI of each spouse by the FAGI shown on the federal return. Round the

resulting percentage to four decimal places.

- b) Multiply each deduction and add-back item by the percentage calculated in part a (above). The allocable deductions and add-back items are:

- State income tax deducted as an itemized deduction on federal Schedule A.
- Other items that must be added back to FAGI on the state return.
- Itemized or standard deductions.
- State exemptions for dependents.
- One-half of the federal tax liability.
- State income tax refund included on the federal return.
- Other state deductions.

The only item on the Utah return that does not have to be allocated between the spouses' separate state returns is his or her personal exemption.

Example: If the husband has 80% of the FAGI, he may deduct or add-back 80% of each item listed above, but he may deduct 100% of his personal exemption. The wife would deduct or add-back 20% of each item listed above and deduct 100% of her personal deduction.

- 3) Complete the Utah return.
 - a) Resident spouse – Use the Utah taxable income to calculate the income tax.
 - b) Nonresident spouse – Use the Utah taxable income to calculate the income tax. Complete form TC-40A, part 3 to determine the income from Utah sources. Follow the instructions on the line "For Non or Part-year Residents Only" to calculate the Utah tax.

Couples who qualify to use Special Instructions may use a different method of allocating deductions or add-back items than outlined in this publication, if that method more accurately reflects each spouse's separate state taxable income. Include documentation of your computations with your return.

Example for Tax Year 2001:

Becky was a full-year resident of Utah before marrying Terry in 2001. Terry is in the military and he is stationed in Utah. Terry's home of record is Wyoming. They qualify to use the Special Instructions because Becky was a Utah resident before marrying Terry. The combined federal adjusted gross income reported on their 2001 joint federal return is \$75,000.

Becky's separate gross income is \$30,000. Dividing \$30,000 by \$75,000 equals .40 or 40%. Use this percentage to allocate the different items on Becky's separate Utah resident return, as follows:

Becky (Utah Resident)	Joint Federal Return From 1040	Joint State Return Form TC-40	Percentage Allocation	Separate State Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$30,000
State income tax deducted as itemized deductions	3,710	3,710	0.40	1,484
Other deductions to income	0	0	0.40	0
Standard or itemized deductions	(10,000)	(10,000)	0.40	(4,000)
Personal exemption (state is 75% of federal)	(2,900)	(2,175)	1.00	(2,175) *
Spouse exemption (state is 75% of federal)	(2,900)	(2,175)	0.00	(0)
Dependents exemptions (state is 75% of federal)	(2,900)	(2,175)	0.40	(870) **
Federal tax (liability on federal, deduction of state)	(10,259)	(5,130)	0.40	(2,052) ***
State refund from line 10 of federal from 1040	(25)	(25)	0.40	(10)
Other deductions	0	0.40	0	
Utah Taxable Income				\$22,377
Utah tax as calculated on line 22 of Utah return (Use the tax rate for married filing separately)				\$1,445

Terry earned \$45,000 during 2001, but \$3,000 of that earned income was from a Utah source not related to military service pay. Terry is required to file a Utah tax return and pay taxes due. Dividing \$45,000 by \$75,000 equals .60 or 60%. Use this percentage to allocate the different items on Terry's separate Utah return, as follows:

Terry (Nonresident)	Joint Federal Return Form 1040	Joint State Return Form TC-40	Percentage Allocation	Separate State Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$45,000
Sate income tax deducted as itemized deductions	3,710	3,710	0.60	2,226
Other additions to income	0	0	0.60	0
Standard or itemized deductions	(10,000)	(10,000)	0.60	(6,000)
Personal exemption (state is 75% of federal)	(2,900)	(2,175)	1.00	(2,175) *
Spouse exemption (state is 75% of federal)	(2,900)	(2,175)	0.00	(0)
Dependents exemption (state is 75% of federal)	(2,900)	(2,175)	0.60	(1,305) **
Federal tax (liability on federal, deduction on state)	(10,259)	(5,130)	0.60	(3,078) ***
State refund from line 10 of federal return 1040	(25)	(25)	0.60	(15)
Other deductions	0	0	0.60	0
Utah taxable income				\$34,653
(Use the tax rate for married filing separately)				\$2,305
Utah tax liability percentage as calculated on line 23 box c				0.0667 ****
Utah Tax line 23 (\$2,305 multiplied by .0667)				\$154

* State exemption for tax year 2001 is \$2,175 (federal exemption \$2,900 multiplied by .75).

** State exemption \$2,175 multiplied by the allocation percentage.

*** The federal tax deduction is 1/2 of the federal tax multiplied by the allocation percentage.
The federal tax \$10,529 consists of lines 47, 52 and 55 from federal form 1040.

**** Line 22B box "a" \$3,000 divided by box "b" \$45,000

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